

REMARKS

The withdrawal of previously expressed bases for the rejection of claims is acknowledged with appreciation.

Reconsideration of presently solicited Claims 1 to 9 and 11 to 19 respectfully is requested. For the reasons indicated in detail hereafter these claims are urged to be in condition for allowance, and such action respectively is requested.

Applicant has provided an improved overall process for the impregnation of cellulose-based products with linseed oil. The process steps are designed through empirical research to well remove moisture that inherently is present in the starting material and to replace the moisture with protective linseed oil in the absence of a solvent under a set of processing conditions designed by Applicant to promote good uptake of linseed oil. A hot treatment is sequentially followed by a cold treatment as described in Applicant's Specification so as to provide an improved impregnated product that can well withstand biological decomposition during use. Initially as specified in step (b) the cellulose-based product is surrounded with heated linseed oil at a temperature exceeded the boiling point of water. Next in step (c) a vacuum is applied while keeping the temperature constant and water in the form of steam and air are released from the product. The following step (d) in combination with the other process steps is key to the achievement of improved results and must be given its due consideration during the examination process. Here in step (d) linseed oil is discharged together with the simultaneous supply of linseed oil at a temperature lower than the boiling point of water. As described at Page 3, lines 19 to 29 of Applicant's Specification:

The process according to the present invention is in principle based on the new concept that the switching over the autoclave from hot linseed oil under vacuum takes place continuously by introducing cold linseed oil simultaneously with decharging the hot linseed oil from the autoclave, the autoclave being progressively put under overpressure. By this procedure the vacuum in the product generated under heat and autoclaved vacuum is utilized at a maximum so that optimal uptake of linseed oil takes place in connection with the supply of cold linseed oil and putting the autoclave under overpressure.

See also Applicant's working examples at Pages 4 to 6 of the Specification where the advantageous impregnation results that are achieved while following Applicant's teachings are reported. Additionally, environmental shortcomings of an impregnation process that utilizes halogenated organic solvent are completely eliminated.

The continued rejection of Claims 1 to 20 under 35 U.S.C. §112, second paragraph, would be inappropriate. In an effort solely to expedite prosecution the words "which exhibits optimal uptake of linseed oil" have been deleted from independent process Claim 1. All of the presently pending claims lack this specific claim language. The withdrawal of this formal rejection is in order and is respectfully requested.

The continued rejection of product Claims 10 and 20 under 35 U.S.C. §102(b) as being anticipated by the product of the old French Patent No. 397,786 to Gillet is no longer an issue that need be resolved. In an effort solely to expedite prosecution, product Claims 10 and 20 have been cancelled. Claims directed exclusively to Applicant's specifically-claimed improved process now are pending.

The continued rejection of presently solicited Claims 1 to 5, 9 to 15, 18, and 19 under 35 U.S.C. §103(a) as being directed to obvious subject matter to one of ordinary skill in the art in view of the different teachings of old U.S. Patent Nos. 247,602 to Boulton of 1881 and 937,008 to Nelson of 1909 would be lacking a sound

technical and legal bases. The "hot and cold" process of the prior art neither disclosed nor reasonably suggested Applicant's overall process as claimed. It does not resolve the patentability issue by pointing out that Boulton and/or Nelson could also have performed their processes in the "same vessel" or "single tank". As previously indicated, Applicant's overall process involves a combination of specifically-defined steps that go beyond anything contemplated by Boulton and/or Nelson and provide particularly advantageous impregnation results in a straightforward manner. It respectfully is submitted that had Applicant's contribution concerning the achievement of improved impregnation been apparent from a reading of these old publications, it would long ago have been adopted and practiced by others. Neither reference suggests the importance of complying with the parameters of step (d) of Applicant's specifically-defined overall process involving the simultaneous discharge/supply of linseed oil to achieve the optimum uptake of linseed oil during the supply of the cold linseed oil as discussed at Page 3 of Applicant's Specification. While Nelson suggests several ways of arranging the change from a hot to a cold bath (or even keeping the same liquid and cooling it at Page 2, lines 47 to 63) he never describes or suggests the importance of simultaneous discharge and supply as claimed by Applicant. Nelson actually suggests only to draw off and supply at Page 2, line 61, and to free the wood from the first bath at Page 1, line 47, before supplying the second. Boulton also is silent with respect to Applicant's overall specifically-claimed process including Applicant's key process step (d). The withdrawal of the rejection is urged to be in order in view of the above and respectfully is requested.

The continued rejection of Claims 6 to 8, 16 and 17 under 35 U.S.C. §103(a) as being directed obvious subject matter to one of ordinary skill in the art over the different teachings of the old U.S. Patent Nos. 247,602 to Boulton and 937,008 to Nelson taken further in view of British Patent No. 701,633 to Kraft Foods Company would be similarly inappropriate. Basic deficiencies of Boulton and Nelson are previously discussed. The teachings of the Kraft Foods Company publication have nothing to do with a process for the improved impregnation of a cellulosed-based products with linseed oil of any type. Even if the reasonably derived teachings of the references were combined, Applicant's specifically-defined process for the achievement of improved impregnation still would not result or be rendered obviously apparent to the reader. The withdrawal of the rejection is urged to be in order and is respectfully requested.

The continued rejection of Claims 1 to 5, 9 to 15, 18 and 19 under 35 U.S.C. §103(a) as being directed to obvious subject matter to one of ordinary skill in the art over the different teachings of U.S. Patent No. 937,008 to Nelson in view of either French Patent No. 397,786 to Gillet or International Publication No. 94/11167 to HUNGBAU KFT further in view of U.S. Patent No. 247,602 to Boulton would be similarly inappropriate. Basic deficiencies of Nelson and Boulton are previously discussed. Applicant acknowledges that linseed oil has been used to preserve wood in the past. However, none of the recited publications either alone or combination contain a suggestion of Applicant's overall improved impregnation process utilizing linseed oil for the reasons previously presented. The withdrawal of the rejection is urged to be in order and is respectfully requested.

Finally, the continued rejection of dependent Claims 6 to 8, 16 and 17 under 35 U.S.C. §103(a) as being directed to obvious subject matter to one of ordinary skill in the art over the different teachings of U.S. Patent No. 937,008 to Nelson in view of either French Patent No. 397,786 to Gillet or International Publication No. WO 94/11167 to HUNGBAU KFT and U.S. Patent No. 247,602 to Boulton, and further taken in view of British Patent No. 701,633 to Kraft Foods Company likewise would be inappropriate. The deficiencies of Nelson, HUNGBAU KFT and Boulton previously are discussed. Reference in the Kraft Foods Company publication to the prior knowledge of a linseed oil of an specific tocoferol content clearly does not remedy the basic deficiencies of the other publications with which it is combined to reveal or suggest Applicant's overall improved specifically-claimed process that is designed to achieve improved impregnation for the reasons previously discussed. The withdrawal of this rejection similarly is respectfully requested.


It respectfully is pointed out that no prima facie showing of obviousness has been made. It is basic to the examination process that in order to establish prima facie obviousness of a claimed invention all the claim limitations must be taught or suggested by the prior art. See M.P.E.P. §2143.03 in this regard. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. §103, then any claim that depends thereon is nonobvious.

If there is any remaining point that requires clarification prior to the allowance of the Application, the Examiner is urged to telephone the undersigned attorney so that the matter can be discussed and resolved.

Respectfully submitted,

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